

U.S. BANKRUPTCY COURT
FILED
TRENTON, NJ

UNITED STATES BANKRUPTCY COURT
District of New Jersey

10 OCT -1 PM 2:00

JAMES J. WALDRON

BY: [Signature]
DEPUTY CLERK
FILING FEE PAID

In re:

Rudolph Maximilian Goepf III,

Debtor.

David E. Collier,

Plaintiff,

v.

Rudolph Maximilian Goepf III,

Defendant.

: Case No.: 10-29384-RTL

: Chapter: 7

: Judge: Honorable Raymond T. Lyons Jr.

: Adversary No.: _____

**COMPLAINT TO DECLARE DEBT NONDISCHARGEABLE
AND TO OBJECT TO DISCHARGE**

1. This is a core proceeding over which this Court has jurisdiction pursuant to 28 U.S.C. §157.
2. Plaintiff is an individual residing at 1059 Edinburg Road, Hamilton, New Jersey, 08690.
3. Plaintiff is the largest unsecured creditor listed on defendant's bankruptcy petition.
4. Defendant is the debtor in the above chapter 7 proceeding, having filed a petition pursuant to chapter 7 of the Bankruptcy Code on or about June 24, 2010.

5. Upon information and belief, defendant resides at 110 Bayard Lane, Princeton, New Jersey, 08540.
6. This is an adversary proceeding to determine the dischargeability of a debt and to object to the discharge of the defendant, Rudolph Maximilian Goepp III ("Goepp").
7. Upon information and belief, in or about 2006 and 2007, Goepp was appointed plaintiff's agent under a Power of Attorney.
8. As agent under Power of Attorney, Goepp owed a fiduciary duty to the plaintiff.
9. This fiduciary duty included the obligation to act within the powers delegated by the Power of Attorney and solely for the benefit of the plaintiff.
10. From approximately 2007 through July 2010, Goepp embarked on a series of methods of separating the plaintiff from his money.
11. These activities included, without limitation: Extracting "loans" from the plaintiff in the forms of personal checks drawn on plaintiff's account payable to Goepp, with no intention on the part of Goepp to repay said loans; extracting "loans" in the form of personal checks from the plaintiff drawn on plaintiff's personal account and payable to Goepp with no collateral as security for repayment; extracting "loans" from plaintiff's now-deceased wife with no intention of repaying same; withdrawing money from plaintiff's bank account for Goepp's personal benefit; transferring funds among plaintiff's financial accounts electronically to facilitate the aforesaid "loan" scheme; diverting plaintiff's mail to a post office box over which plaintiff had no control so plaintiff remained unaware of certain of Goepp's activities; using a debit card for

personal gain or benefit without plaintiff's authorization; engaging in a course of conduct that resulted in the transfer to debtor of money that had belonged to plaintiff solely or jointly with plaintiff's wife; failing to disclose to plaintiff that he had contemplated petitioning for bankruptcy; failing to disclose to plaintiff that he petitioned for bankruptcy.

12. Upon information and belief, some or all of the aforesaid "loans" from plaintiff's wife were memorialized in promissory notes from debtor to said wife.

13. Debtor has admitted that said notes were to belong to the plaintiff upon the death of plaintiff's wife.

14. Plaintiff's wife died on or about September 21, 2007.

15. Section 523(a)(2) of the Bankruptcy Code provides in part that any debt for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by false pretenses, a false representation, or actual fraud is not dischargeable.

16. Section 523(a)(4) provides in part that a discharge does not discharge an individual debtor from any debt for fraud or defalcation while acting in a fiduciary capacity, embezzlement, larceny.

17. Plaintiff believes and therefore alleges that Goepp's activities as set forth herein constitute exceptions to discharge under 11 U.S.C. 523(a)(2) and 11 U.S.C. 523(a)(4).

WHEREFORE, plaintiff prays that this Honorable Court enter an order declaring that the debts of Goepp to the plaintiff are nondischargeable and that the plaintiff have

such further and other relief as the Court deems just and appropriate under the circumstances of this suit.

Dated: September 30, 2010



Ronald M. Katkocin, Esquire
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The Hansen – Warner Building
4 Union Street, Suite 202
Medford NJ 08055
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Attorney for David E. Collier

B104 (FORM 104) (08/07)

U.S. BANKRUPTCY COURT

ADVERSARY PROCEEDING COVER SHEET

(Instructions on Reverse)

ADVERSARY PROCEEDING NUMBER
TRENTON (Court Use Only)

10 OCT -1 PM 2:00

PLAINTIFFS

David E. Collier

DEFENDANTS

JAMES J. WALDRON
Rudolph Maximilian Goepf III

BY: [Signature]

DEPUTY CLERK

ATTORNEYS (Firm Name, Address, and Telephone No.)

Ronald M. Katkocin, Esquire
Katkocin Law Office 609-953-2000
4 Union Street, Suite 202
Medford NJ 08055

ATTORNEYS (If Known)

Barry W. Frost, Esquire
Teich Groh
691 State Highway 33, Trenton NJ 08619

PARTY (Check One Box Only)

- ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin
☒ Creditor ☐ Other
☐ Trustee

PARTY (Check One Box Only)

- ☒ Debtor ☐ U.S. Trustee/Bankruptcy Admin
☐ Creditor ☐ Other
☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

To declare debt nondischargeable under 11 U.S.C. 523(a)(2) and (a)(4).

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) - Recovery of Money/Property

- ☐ 11-Recovery of money/property - §542 turnover of property
☐ 12-Recovery of money/property - §547 preference
☐ 13-Recovery of money/property - §548 fraudulent transfer
☒ 14-Recovery of money/property - other

FRBP 7001(2) - Validity, Priority or Extent of Lien

- ☐ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) - Approval of Sale of Property

- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) - Objection/Revocation of Discharge

- ☒ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) - Revocation of Confirmation

- ☐ 51-Revocation of confirmation

FRBP 7001(6) - Dischargeability

- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
☒ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
☒ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) - Dischargeability (continued)

- ☐ 61-Dischargeability - §523(a)(5), domestic support
☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
☐ 63-Dischargeability - §523(a)(8), student loan
☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
☐ 65-Dischargeability - other

FRBP 7001(7) - Injunctive Relief

- ☐ 71-Injunctive relief - imposition of stay
☐ 72-Injunctive relief - other

FRBP 7001(8) Subordination of Claim or Interest

- ☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment

- ☐ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action

- ☐ 01-Determination of removed claim or cause

Other

- ☐ SS-SIPA Case - 15 U.S.C. §§78aaa et seq.
☒ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☐ Check if this case involves a substantive issue of state law

☐ Check if this is asserted to be a class action under FRCP 23

☐ Check if a jury trial is demanded in complaint

Demand \$ 325,000

Other Relief Sought

B104 (FORM 104) (08/07), Page 2

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Rudolph Maximilian Goepp III		BANKRUPTCY CASE NO. 10-293-84-RTL
DISTRICT IN WHICH CASE IS PENDING New Jersey	DIVISION OFFICE	NAME OF JUDGE Raymond T. Lyons Jr.
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE	PRINT NAME OF ATTORNEY (OR PLAINTIFF)	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

RONALD M. KATKOCIN

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September 30, 2010

Clerk
United States Bankruptcy Court
District of New Jersey
Clarkson S Fisher Federal Court House
402 East State Street
Trenton NJ 08608

Re: In Re Rudolph Maximilian Goepp III
Case No. 10-29384-RTL

Dear Sir or Madam:

In accordance with D.N.J. LBR 7001-1, I enclose herewith for filing the following

1. \ An original and one copy of a Complaint to Declare Debt Nondischargeable and to Object to Discharge;
2. An original and one copy of a Form 250B Summons;
3. An original and one copy of an Adversary Proceeding Cover Sheet (Form 104);
4. An original and one copy of my Certification of Noncompliance; and
5. The filing fee in the form of an attorney business check payable to USBC in the amount of \$250.

Please file these documents and return copies marked "filed" in the pre-addressed, postage-paid envelope that also is enclosed for your convenience. Please also issue the summonses and return same, signed, dated, and sealed, with adversary number and pretrial conference information included thereon.

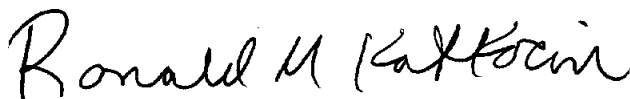
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JAMES J. WALDRON
BY: DEPUTY CLERK
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TRENTON, NJ
U.S. BANKRUPTCY COURT

Clerk
September 30, 2010
Page two

If you have any questions or comments with regard to the enclosed, please call me at 609-953-2000.

Thank you for your courtesy and cooperation.

Very truly yours,

A handwritten signature in black ink that reads "Ronald M Katkocin". The signature is written in a cursive style with a large, stylized 'R' and 'K'.

Ronald M. Katkocin

RMK/dlr
encs.